

R E M A R K S

Reconsideration of this application, as amended, is respectfully requested.

RE: TELEPHONE INTERVIEW

The Examiner is thanked for conducting a telephone interview on August 29, 2008. In the telephone interview, as indicated by the Examiner on page 2 of the Final Office Action, authorization was given by the undersigned for an Examiner's amendment of the method claim 9 to more closely follow the limitations of the apparatus claim 1. More particularly, in the telephone interview, authorization was given to amend claim 9 as set forth on page 2 of the Final Office Action.

THE CLAIMS

Independent claim 1 has been amended to clarify that the sample image area extraction unit extracts the sample image area in which a sample image exists from the image of wide-angle view captured by the macro image capture unit, and to clarify that the height coordinate acquisition position setting unit automatically sets a plurality of positions in an XY direction over the sample image area extracted by the sample image area extraction unit in each of which a height coordinate Z is acquired. In addition, independent claim 1 has been amended to clarify that the focal

point adjusted position computation unit computes an adjusted position of a focal point in an arbitrary position in the sample image area using height coordinate data read by the coordinate read unit over the sample image area, and to clarify that the sample travel unit transfers a height of a sample to the adjusted focal position computed by the focal point adjusted position computation unit following horizontal traverse of the sample.

Independent method claim 9 (as amended by the Examiner's Amendment) has been amended in a corresponding manner to apparatus claim 1.

No new matter has been added, and it is respectfully requested that the amendments to the claims be approved and entered.

THE PRIOR ART REJECTION

According to the present invention as recited in amended independent claims 1 and 9, a microscopic image capture apparatus and a method are provided whereby an image of a wide-angle view of an entire observing slide is captured by a low magnification optical system, a sample image area in which a sample image exists is extracted from the captured image of wide-angle view, a plurality of horizontal positions (positions in an XY direction) are automatically set over the extracted sample image area and in each of the horizontal positions, a height coordinate Z is

acquired, the low magnification optical system is replaced with a high magnification optical system, a height coordinate which is a focal point position of the high magnification optical system is read in each of the set horizontal positions, an adjusted position of a focal point in an arbitrary position in the sample image area is computed using the set horizontal positions and height coordinate data read over the sample image area, and a height of a sample is transferred to the computed adjusted focal position following horizontal traverse of the sample.

With the structure and method of the present invention as recited in amended independent claims 1 and 9, advantageous effects are produced whereby a time required to extract a sample image area in the observing slide by the low magnification optical system is shortened, and further, a time required to obtain the entire image of a sample is shortened by reducing the number times autofocus needs to be executed.

The Examiner has rejected claims 9 rejected under 35 USC 102 as being anticipated by newly cited USP 6,215,892 ("Douglass et al"), and the Examiner has rejected claims 1-3 under 35 USC 103 as being obvious in view of Douglass et al.

It is respectfully submitted, however, that Douglass et al does not disclose, teach or suggest the above described structural features and advantageous effects of the present invention as recited in amended independent claims 1 and 9.

In particular, it is respectfully submitted that Douglass et al does not disclose or suggest that plural horizontal positions are set over an extracted sample image area at low magnification, and a height coordinate is read for each of the set plural horizontal positions at high magnification, as according to the present invention as recited in amended independent claims 1 and 9. Accordingly, it is respectfully submitted that Douglass et al does not achieve or render obvious the features of the present invention as recited in amended independent claims 1 and 9 whereby a sample image area in which a sample image exists is extracted from an image of wide-angle view of an entire observing slide captured by a low magnification optical system, a plurality of horizontal positions are automatically set over the extracted sample image area and in each of the set horizontal positions a height coordinate Z is acquired, the low magnification optical system is replaced with a high magnification optical system, and a height coordinate which is a focal point position of the high magnification optical system is read in each of the set horizontal positions.

In view of the foregoing, it is respectfully submitted that the present invention as recited in amended independent claims 1 and 9, and claims 2 and 3 depending from claim 1, clearly patentably distinguishes over Douglass et al, taken singly or in

combination with any of the other prior art references of record,
under 35 USC 102 as well as under 35 USC 103.

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Entry of this Amendment, allowance of the claims and the
passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or
recommendations, the Examiner is invited to telephone the
undersigned at the telephone number given below for prompt
action.

Respectfully submitted,

/Douglas Holtz/

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